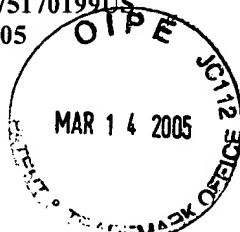


Express Mail Label No.: EV475170199US  
Date of Deposit: March 14, 2005



**PATENT**  
Attorney Docket No. 24200-002CON

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

James D. Schlick et al.

Serial No.: 09/493,783

Filed: January 28, 2000

)  
)  
)  
)  
)  
)

Group Art Unit: 3623

Examiner: Susanna M. Meinecke Diaz

For: METHOD AND APPARATUS FOR PROBLEM SOLVING, DECISION  
MAKING AND STORING, ANALYZING AND RETRIEVING  
ENTERPRISEWIDE KNOWLEDGE AND CONCLUSIVE DATA

**APPEAL BRIEF**

03/17/2005 MAHMED1 00000031 09493783

01 FC:2402

250.00 OP

## TABLE OF CONTENTS

	<b>Page</b>
I. PRELIMINARY STATEMENT	2
II. REAL PARTY IN INTEREST	3
III. RELATED APPEALS AND INTERFERENCES	3
IV. STATUS OF CLAIMS	3
V. STATUS OF AMENDMENTS	4
VI. SUMMARY OF INVENTION	4
VII. ISSUE ON APPEAL	8
VIII. GROUPING OF CLAIMS	9
IX. ARGUMENT	9
A. Group I (claims 1-3): The DF documents do not disclose (i) storing data in a knowledge base or (ii) selection of an in process analysis for modification by a user as claimed in claim 1	9
B. Group I (claims 1-3): The Lee document does not disclose (i) storing data in a knowledge base or (ii) selection of an in process analysis for modification by a user as claimed in claim 1	12
C. Group I (claims 1-3): Thus the DF and Lee documents, individually or in combination, do not disclose (i) storing data in a knowledge base or (ii) selection of an in process analysis for modification by a user as claimed in claim 1	13
D. Group I (claims 1-3): Furthermore, there is no motivation or suggestion in the DF and Lee documents to make the combination indicated in the Office Action and Lee teaches away from the suggested combination	14
E. Group II (claims 4-7, 17-29, 31-42, 58-61, 71-83, and 85-96): The DF documents do not disclose (i) employing a knowledge base or (ii) employing an action tracker as claimed in claim 4	19

F.	Group II (claims 4-7, 17-29, 31-42, 58-61, 71-83, and 85-96): The Lee document does not disclose (i) employing a knowledge base or (ii) employing an action tracker as claimed in claim 4.	22
G.	Group II (claims 4-7, 17-29, 31-42, 58-61, 71-83, and 85-96): Thus the DF and Lee documents, individually or in combination, do not disclose (i) employing a knowledge base or (ii) employing an action tracker as claimed in claim 4	23
H.	Group II (claims 4-7, 17-29, 31-42, 58-61, 71-83, and 85-96): Furthermore, there is no motivation or suggestion in the DF and Lee documents to make the combination indicated in the Office Action and Lee teaches away from the suggested combination	23
I.	Group III (claims 8-16, 43-45, 62-70, and 97-99): The USPTO improperly takes Official Notice that claims 8-16, 43-45 are old and well-known	26
J.	Group IV (claims 30, 46-57, 84, and 100-111): The subject matter of dependent claims 30 46-57, 84, and 100-111 further patentably distinguish over the cited documents	28
X.	CONCLUSION	30
XI.	APPENDIX I – CLEAN COPY OF THE PENDING CLAIMS	31

**PATENT**  
Attorney Docket No. 24200-002CON

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

James D. Schlick et al. )  
Serial No.: 09/493,783 )  
Filed: January 28, 2000 )  
 ) Group Art Unit: 3623  
 ) Examiner: Susanna M. Meinecke Diaz

For: METHOD AND APPARATUS FOR PROBLEM SOLVING, DECISION  
MAKING AND STORING, ANALYZING AND RETRIEVING  
ENTERPRISEWIDE KNOWLEDGE AND CONCLUSIVE DATA

Mail Stop **APPEAL BRIEF - PATENTS**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**APPELLANTS' BRIEF ON APPEAL UNDER 37 C.F.R. §1.192**

Sir:

Further to the Notice of Appeal filed on November 15, 2004,  
Appellants/Applicants herewith submit Appellants Brief on Appeal in triplicate pursuant  
to 37 C.F.R. § 1.192(a).

Applicants enclose herewith a Petition for a two-month extension of time pursuant  
to 37 C.F.R. §1.136(a) and a \$225.00 check as required by 37 C.F.R. §1.17(a)(2). With  
this extension of time, the present Appeal Brief is due on March 15, 2005. Applicants  
also enclose a \$250.00 check for the fee associated with filing a brief in support of a  
Patent Appeal as required under 37 C.F.R. § 41.20(b). Applicants believe that no

APPELLANTS' BRIEF ON APPEAL

Application No. 09/493,783

Attorney Docket No. 24200-002CON

additional fees are due with this filing. However, if any additional fees are required and/or if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned for under 37 C.F.R. § 1.136(a), and any fees required therefore (including fees for net addition of claims) are hereby authorized to be charged to our Deposit Account No. 50-0311 (Ref. No. 24200-002CON).

**I. PRELIMINARY STATEMENT**

The present invention has the potential to be among the most significant advances in the analysis of complex business situations. However, the Patent Office has failed to appreciate the ground breaking significance of the invention as a whole, ignored specific recitations of the claims and improperly selected isolated elements of disparate references, with no proper suggestion to combine the disparate references to achieve the claimed combination.

The sole remaining rejection, i.e., an obviousness rejection under 35 USC 103, is based on the proscribed approach of pointing to various claim elements in diverse references and alleging that each of the elements are found somewhere in the prior art, without regard to the significance of the specific combination of elements claimed as a whole and the portions of the references that teach away from the invention. Additionally, many of the references do not even disclose what the Examiner alleges they do. Therefore, even if these disparate references are combined, the combination still fails to disclose each claim element. In short, the prior art relied on is woefully inadequate to provide a proper legal basis for denying a patent on the pending claims.

The remaining obviousness rejection should be squarely reversed and this case should be issued.

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

**II. REAL PARTY IN INTEREST**

The real party in interest is Kepner-Tregoe, Inc., the assignee of the application from the inventors of record.

**III. RELATED APPEALS AND INTERFERENCES**

This appeal is not related to any other appeals or interferences.

**IV. STATUS OF CLAIMS**

Pending claims 1-36, 40, 41, 43-49, 52-90, 94, 95, 97-103, and 106-111, set forth in Appendix I, are the subject of this appeal. Applicants have cancelled claims 37-39, 42, 50, 51, 91-93, 96, 104, and 105 without prejudice.

Claims 1-3 were included in the application as originally filed July 2, 1999. A continuation application was filed on January 28, 2000. Claims 4-111 were added by preliminary amendment on August 28, 2000.

An Office Action issued on June 3, 2002 including a Rule 105 request for information. Applicants filed an Amendment A on November 1, 2002 in which the Applicants cancelled claims 37-39, 42, 50, 51, 91-93, 96, 104, and 105 without prejudice and provided certain information in response to the June 3, 2002 Rule 105 request.

Another Office Action issued on March 14, 2003 expanding on the June 3, 2002 Rule 105 requests. Applicants filed a response to the March 14, 2003 Office Action (without amending the claims) on May 14, 2003.

Yet another Office Action issued on August 14, 2003 indicating that the Applicants had sufficiently responded to the Rule 105 requests and rejecting the pending claims under 35 USC 103. The Applicants filed "Amendment B and Response to the August 14, 2003 Office Action" on December 12, 2003 in which the Applicants amended claims 35, 41 and 46 to correct typographical errors.

Still another (final) Office Action issued on May 17, 2004 maintaining the 35 USC 103 rejection of the pending claims. The Applicants filed a response to the May 17, 2004 Office Action (without amending the claims) on July 9, 2004. On August 4, 2004,

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

an Advisory Action issued indicating that the Applicants July 9, 2004 response does not place the application in condition for allowance. The Advisory Action stated that the Applicants reiterate arguments presented prior to Final Action and the "Examiner maintains her position as set forth in the Final rejection, mailed May 17, 2004."

Thus, the Applicants appeal the only remaining rejection of claims 1-36, 40, 41, 43-49, 52-90, 94, 95, 97-103, and 106-111. These claims stand rejected under 35 USC 103(a) as unpatentable over Decision Focus® Software, as disclosed in the following documents submitted by the Applicants:

"Decision Focus® Software User's Guide (Version 1.0)," copyright 1995;  
"Decision Focus® Software Network Version 1.0 User's Guide," copyright 1995;  
Print-outs of On-Screen Worksheets from "Decision Focus® Software; and  
Screenshots (FIGS. 1-24) from "Decision Focus® Software (Version 1.0)  
*in view of* Lee, Heeseok, "Justifying Database Normalization: A Cost/Benefit Model,"  
Information Processing & Management, vol. 31, No. 1, pages 59-67, Jan-Feb 1995.

**V. STATUS OF AMENDMENTS**

The Applicants have not amended the claims subsequent to the May 17, 2004 Final Office Action.

**VI. SUMMARY OF INVENTION**

The specification, between page 3, line 5 and page 5, line 16 is the basis for the following summary of the invention. Embodiments of the invention provide a computer software application, graphical user interface (GUI), and method for entering information concerning a complex business situation, refining such information in a stepwise manner through such an interface, generating a list of effective actions for addressing such a business situation, and storing such information in a knowledge base adapted for future query and reporting use for such complex business situations. A set or sequence of process screen structures allows entry of specific aspects of such a situation to generate such an action list. Such process screen sequences provide a systematic method to gather

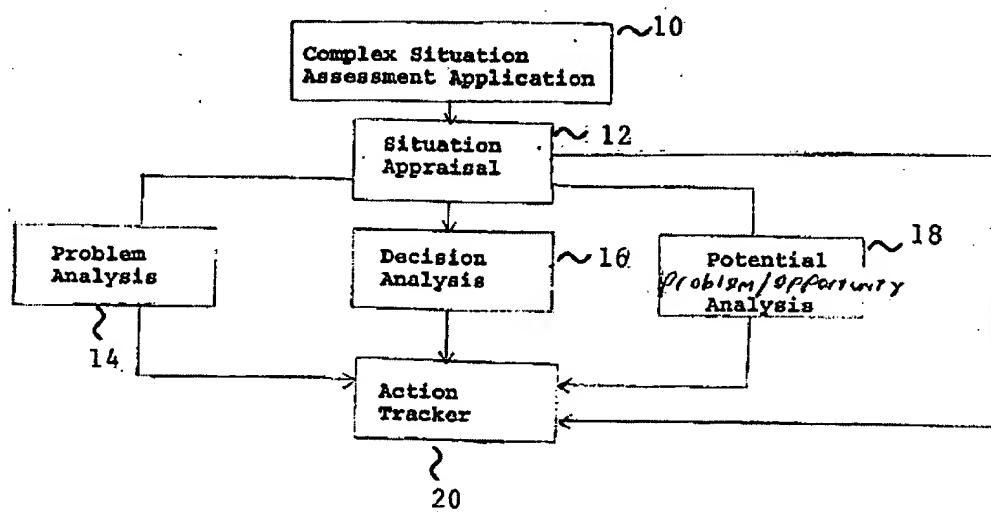
APPELLANTS' BRIEF ON APPEAL

Application No. 09/493,783

Attorney Docket No. 24200-002CON

and organize information effectively in order to resolve a complex situation, and to store such information in a knowledge base for later query and retrieval for the same or similar situations, thereby preserving enterprise-wide knowledge and expertise. An action tracker interface is also provided which provides task management and monitoring of the various actions determined by the process screen sequences. The user has the ability to access the process screens in a non-linear mode and can toggle between interview and worksheet modes.

As noted in the specification on page 9, between lines 9 and 20, a top level functional block diagram of the complex situation assessment process screen sequences 10 is shown in Fig. 1 directly below. Situation appraisal 12 is typically most applicable to an initial assessment and enumeration of concerns surrounding a situation. This appraisal results in an indication of which of the process screen sequences, problem analysis 14, decision analysis 16, or potential problem/opportunity analysis 18, is most applicable to a particular concern. Each of the three analysis process screen sequences 14, 16, 18 may also be invoked independently irrespective of a corresponding situation analysis. Action tracker interface 20 is available from all process screen sequences and may also be invoked independently.



APPELLANTS' BRIEF ON APPEAL

Application No. 09/493,783

Attorney Docket No. 24200-002CON

As noted in the specification between page 9, line 20 and page 10, line 9, Fig. 2 directly below shows an architectural block diagram of the system in which the situation assessment process screen sequences are invoked. Software architecture 23 as included, for example, in workstation 22 includes the process components 24 which comprise the situation appraisal, problem analysis, decision analysis, and potential problem/opportunity analysis software which drive the process screen sequences. Action tracker component 26 comprises software driving the action tracker, accessible from any of the process screen sequences. Knowledge base access and retrieval of prior situation assessment activities are performed by report writer component 28, for broad queries and retrieval of large quantities of data, and keyword query or other searching component 30, for pinpointing specific entities and situations. Other support and administrative functions are provided by licensing management component 32, system support component 34, and administrative component 36.

Workstation 22 is networked to remote users 38, for enterprise-wide access at remote locations, and local network server 40, for accessing the knowledge base 42 to store and retrieve prior situation assessment data. Archive database 44 and client database 46 are for backup functions and enterprise specific information, respectively.

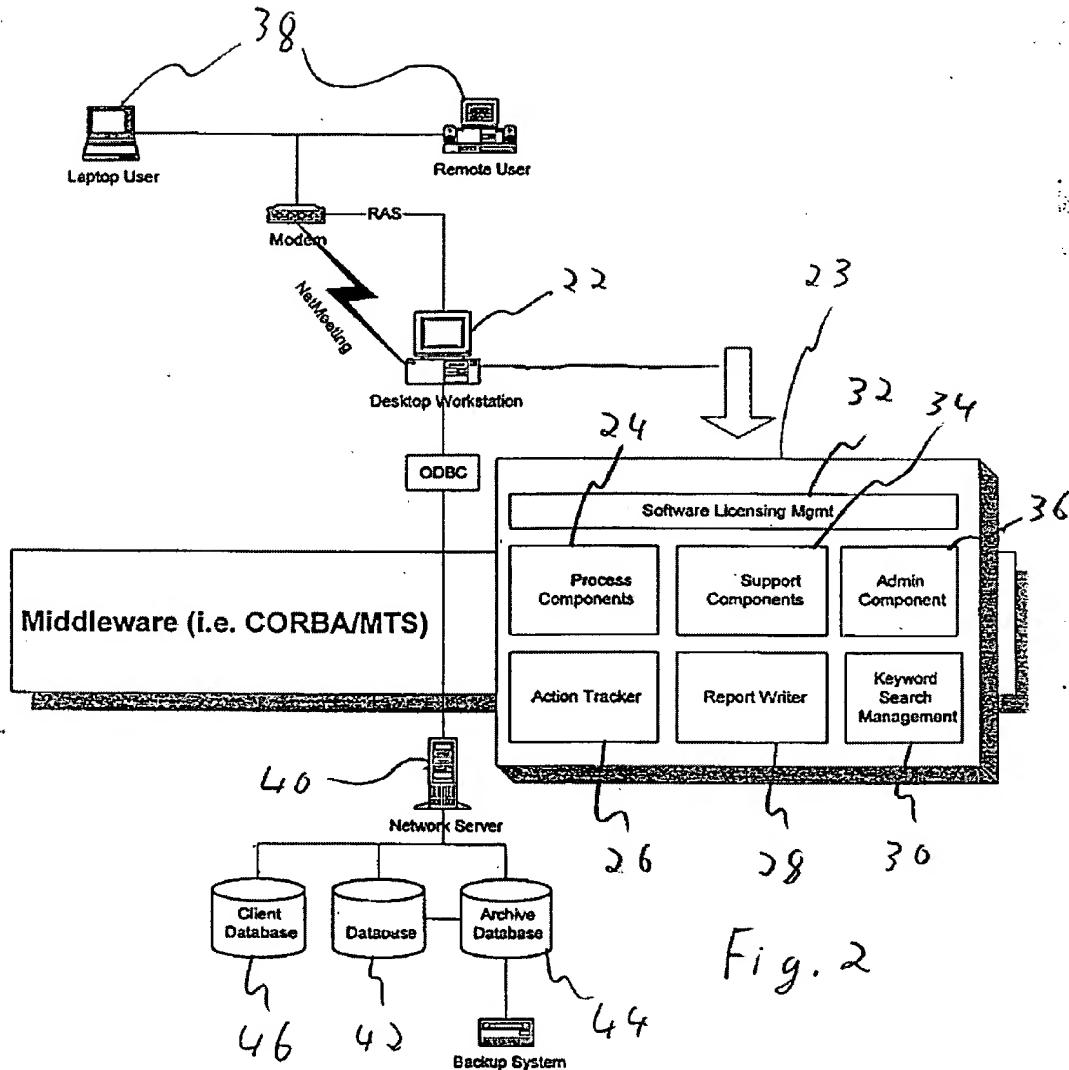


Fig. 2

With reference to FIGS. 1 and 2 and as defined by amended claim 1, the invention provides a method of gathering, processing, storing, and displaying information concerning a complex business situation. The method includes providing a graphical user interface for entering data concerning the complex business situation; refining the data in a predetermined, stepwise manner through user interaction with the graphical user interface; generating, through the stepwise manner and the graphical user interface, a list of effective actions for addressing the complex business situation; and *storing the data in an indexed and normalized form in a knowledge base 42 adapted for structured query and retrieval in performing the steps of refining and generating*. The knowledge base

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

enables *selection of an in process analysis for modification by a user*. Claims 2 and 3 contain similar limitations. (Please see the specification, for example page 23, between lines 9-14, and page 41, line 1 to page 42, line 26).

With reference to FIGS. 1 and 2 and as defined by amended independent claim 4, the invention provides a process for eliciting, processing, storing, and displaying information concerning a complex business situation. The process includes: employing a knowledge base 42 providing for structured storage and retrieval of data; employing at least one of: a) a situation appraisal process 12; b) a problem analysis process 14; c) a decision analysis process 16 ; and d) a potential side effect analysis process 18; and employing an action tracker process 20 to (i) retrieve and present actions from the other processes, and (ii) to elicit, store, retrieve and present attributes of the actions, the attributes of each action including a responsible person, a deadline, and status; wherein each process employs a corresponding set of graphical user interface (GUI) process screens in eliciting data from and presenting data to a user.

Please see claim 4 for the full recitations of the situation appraisal, problem analysis, decision analysis and potential side effect analysis processes.

Independent claim 58 contains elements/limitations similar to those of claim 4.

## VII. ISSUE ON APPEAL

The issue on appeal is the following:

Whether the United States Patent and Trademark Office (USPTO) erred in rejecting claims 1-36, 40, 41, 43-49, 52-90, 94, 95, 97-103, and 106-111 under 35 USC 103(a) as unpatentable over Decision Focus® Software, as disclosed in the following documents submitted by the Applicants:

“Decision Focus® Software User’s Guide (Version 1.0),” copyright 1995;  
“Decision Focus® Software Network Version 1.0 User’s Guide,” copyright 1995;  
Print-outs of On-Screen Worksheets from “Decision Focus® Software; and  
Screenshots (FIGS. 1-24) from “Decision Focus® Software (Version 1.0)  
[hereinafter the “DF” documents] *in view of* Lee, Heeseok, “Justifying Database  
Normalization: A Cost/Benefit Model,” Information Processing & Management, vol. 31,  
No. 1, pages 59-67, Jan-Feb 1995 [hereinafter the “Lee” document].

## **VIII. GROUPING OF CLAIMS**

The Applicants group the claims as follows: Group I- claims 1, 2 and 3; Group II – claims 4-7, 17-29, 31-42, 58-61, 71-83, and 85-96; Group III- claims 8-16, 43-45, 62-70, and 97-99; and Group IV – claims 30, 46-57, 84, and 100-111. Each Group is separately patentable and thus no two groups fall together. The reasons why each Group is separately patentable are presented in the arguments below.

## **IX. ARGUMENT**

All claims are allowable over the documents (i.e., the DF and Lee documents) cited in the May 17, 2004 final Office Action (hereinafter the “final Office Action”) because the USPTO fails to set forth a *prima facie* case of obviousness for any pending claim. The final Office Action is in error because it: i) fails to show that the applied documents, even if combined, teach or suggest all claim recitations; ii) fails to provide a legal basis to modify or combine the cited documents; iii) fails to consider the claimed invention as a whole; and iv) impermissibly relies on hindsight. Support for the following arguments can be found, among other places, in the sections of the specification cited below and in the Applicant’s responses filed December 12, 2003 and July 9, 2004.

### **A. GROUP I (CLAIMS 1-3): THE DF DOCUMENTS DO NOT DISCLOSE (I) STORING DATA IN A KNOWLEDGE BASE OR (II) SELECTION OF AN IN PROCESS ANALYSIS FOR MODIFICATION BY A USER AS CLAIMED IN CLAIM 1**

Contrary to the assertion in the May 17, 2004 Office Action that claim 1 is obvious over the DF documents in view of the Lee document, claim 1 recites elements/limitations that are completely absent from the DF documents and the Lee document, alone or in combination.

In particular, the DF documents do not disclose “*storing the data in an indexed and normalized form in a knowledge base adapted for structured query and retrieval in performing the steps of refining and generating* [emphasis added],” as claimed in currently pending claim 1. The knowledge base is shown as element 42 in FIG. 2 of the

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

present application. Embodiments of the structure of the knowledge base are illustrated in FIGS. 38-42 of the present application.

The May 17, 2004 Office Action addresses the obviousness rejection of claim 1 on page 21 and states in relevant part:

Claims 1-3 recite limitations already addressed by the rejection of claims 4-36, 40, 41, 43-49, and 52-57 above; therefore the same rejection applies.

Claims 1-3 contain elements/limitations, including the element(s)/limitation(s) underlined and italicized above, that are unique to claims 1-3. Thus, Applicants respectfully assert that claims 1-3 recite limitations that were not addressed by the rejection of claims 4-36, 40, 41, 43-49, and 52-57. Moreover, portions of both a previously issued June 3, 2002 Office Action and a previously issued August 14, 2003 Office Action appear to acknowledge that the DF documents do not disclose the element(s)/limitation(s) underlined and italicized above.

More specifically, page 11 of the June 3, 2002 Office Action issued in this case states:

EDI [Decision Focus® Software User's Guide (Version 1.0)] does not expressly teach storing said data in an indexed and normalized form in a knowledge base adapted for structured query and retrieval in performing said steps of refining and generating.

Furthermore, page 11 of the August 14, 2003 Office Action in this case states:

Broadly speaking, a "knowledge base" merely refers to a collection of knowledge, i.e., data; therefore, the collection of these worksheet files serves as a "knowledge base." Decision Focus® Software does not expressly teach that these centrally stored worksheet files are linked to one another in a large database (which is what would be suggested by placing the information found in such files in a "knowledge base"). [Emphasis added.]

Thus, the two portions of the June 3, 2002 Office Action and the August 14, 2003 Office Action quoted immediately above appear to acknowledge that the DF documents do not disclose the element(s)/limitation(s) italicized and underlined above.

In addition, the DF documents do not teach "selection of an in process analysis for modification by a user," as claimed in currently pending claim 1.

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

As noted above, page 21 of the May 17, 2004 Office Action addressing the obviousness rejection of claim 1 states:

Claims 1-3 recite limitations already addressed by the rejection of claims 4-36, 40, 41, 43-49, and 52-57 above; therefore the same rejection applies.

Furthermore, regarding the limitation “said knowledge base enabling selection of an in process analysis for modification by a user” (as recited in claims 1-3), the networked version of Decision Focus® Software allows a user to access data currently being used by another person. The user then makes a copy of the desired file so that he/she does not overwrite someone else’s work, thereby implying that the user can modify the data in the copied file (“Decision Focus® Software Network Version 1.0 User’s Guide”: Page 11). [Emphasis added.]

In contrast to the above-quoted characterization of page 11 of DF Network (DECISION FOCUS Software, Network Version 1.0, User’s Guide) and with reference to that same page 11, if a user attempts to open a worksheet file that is already opened by someone else running Decision Focus, “the software informs the user that the file is already in use”. Although a user appears to be able to make a copy of the file, *as stated on page 11 of DF Network, “if you subsequently attempt to save that copy, you are not allowed to save the copy to the same name as the original file name. This is to protect you from overwriting someone else’s work”* Thus, the DF documents do not teach that the knowledge base enables selection of an **in process** analysis for modification by the user, as claimed in currently pending claim 1, *because a user of DF Network cannot modify an in process analysis*. The ability to modify an in process analysis is advantageous, among other reasons, for collaborative analysis, i.e., an analysis by more than one individual.

In response to Applicants arguments above (made in Applicants December 12, 2003 response), page 3 of the May 17, 2004 Office Action states the following:

The claim language does not preclude a user from making a copy of an **in process** analysis and then making changes, which are to be saved under a different file name. As recited in claim 1, for example, a user of Decision Focus Software can select an **in process** analysis (i.e., Decision Focus Software user can make a copy of a “worksheet file that is already opened by someone else running Decision Focus,” page 11 of “Decision Focus Software Network Version 1.0 User’s Guide”). The user can then modify the copied file and save it under a different file name in order to prevent

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

overwriting of someone else's work (page 11 of "Decision Focus Software Network Version 1.0 User's Guide"). *The claim language does not specify how a modification of an in process analysis is saved (e.g., saved under a different file name, overwrites the original process analysis, etc.).* [Emphasis added].

Applicants submit that the phrase "selection of an in process analysis for modification by a user" is commonly understood in the English language to mean the selection of an analysis-that-is-in-the-process-of-being-performed for modification by a user. MSN's Encarta dictionary defines "in process" as follows: underway, in the process of happening. In light of this understanding of the highlighted claim language, the act of making a copy of an analysis and saving it to a different filename removes the analysis from being in process and freezes the analysis at a particular point in time, taking the analysis out of process. *As noted above, the ability to modify an in process analysis is advantageous, among other reasons, for collaborative analysis, i.e., an analysis by more than one individual.*

**B. GROUP I (CLAIMS 1-3): THE LEE DOCUMENT DOES NOT DISCLOSE (I) STORING DATA IN A KNOWLEDGE BASE OR (II) SELECTION OF AN IN PROCESS ANALYSIS FOR MODIFICATION BY A USER AS CLAIMED IN CLAIM 1**

Furthermore, the Lee document does not disclose the element(s)/limitation(s) italicized and underlined above, i.e., 1) *storing the data in an indexed and normalized form in a knowledge base adapted for structured query and retrieval in performing the steps of refining and generating;* and/or 2) *selection of an in process analysis for modification by a user,* as claimed in currently pending claim 1. As noted above, page 21 of the May 17, 2004 Office Action addresses the obviousness rejection of claim 1 stating in relevant part:

Claims 1-3 recite limitations already addressed by the rejection of claims 4-36, 40, 41, 43-49, and 52-57 above; therefore the same rejection applies.

Claims 1-3 contain elements/limitations, including the element(s)/limitation(s) underlined and italicized above, that are unique to claims 1-3. Thus, Applicants respectfully assert that claims 1-3 recite limitations that were not addressed by the rejection of claims 4-36, 40, 41, 43-49, and 52-57.

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

Furthermore, the Office Action appears to discuss the Lee document only briefly on pages 14 and 15. On page 14, the May 17, 2004 Office Action states in relevant part:

Lee discusses the benefits ("reduced anomalies, storage requirements, and transaction response time") of utilizing normalized databases "in information systems development processes to group data into well-refined structures."

The May 17, 2004 Office Action appears to be quoting a portion of the abstract of the Lee document. The complete abstract indicates that there are costs associated with normalization. More specifically, the complete abstract states the following:

Proposes a **cost/benefit model** coupled with a decision tree for determining normal forms, which are used in information systems development processes to group data into well-refined structures. The three primary variables that impact the benefits **and costs of normalization** (reduced anomalies, storage requirements, and transaction response times) **are addressed**. [Emphasis added.]

In any event, the Lee abstract in particular and the Lee document in general do not teach: 1) storing the data in an indexed and normalized form in a knowledge base adapted for structured query and retrieval in performing the steps of refining and generating; and/or 2) selection of an in process analysis for modification by a user, as claimed in currently pending claim 1.

**C. GROUP I (CLAIMS 1-3): THUS THE DF AND LEE DOCUMENTS, INDIVIDUALLY OR IN COMBINATION, DO NOT DISCLOSE (I) STORING DATA IN A KNOWLEDGE BASE OR (II) SELECTION OF AN IN PROCESS ANALYSIS FOR MODIFICATION BY A USER AS CLAIMED IN CLAIM 1**

The final Office Action does not point to a teaching in the DF and/or Lee documents of the above-referenced element(s)/limitation(s). In Applicant's December 12, 2003 response, the Applicant respectfully requested, if the Examiner repeated this obviousness rejection, that the Examiner specify where in either the DF documents or the Lee document such element(s)/limitation(s) is/are taught. The final Office Action did not respond to this request so presumably there are no other un-cited sections of the DF and Lee documents that the Examiner considers to teach the above-referenced recitations.

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

Given that the DF documents and/or the Lee document do not teach the above-referenced recitations, even if one were to combine Lee and the DF documents as suggested one would not arrive at the claimed invention.

**D. GROUP I (CLAIMS 1-3): FURTHERMORE, THERE IS NO MOTIVATION OR SUGGESTION IN THE DF AND LEE DOCUMENTS TO MAKE THE COMBINATION INDICATED IN THE OFFICE ACTION AND LEE TEACHES AWAY FROM THE SUGGESTED COMBINATION**

Obviousness cannot be established by combining the teachings of the cited documents to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination. See *In re Geiger*, 815 F.2d 686, 2 USPQ 2d 1276, 1278 (Fed. Cir. 1987).

It is impermissible for an Examiner to use the claimed invention as a “template” to piece together the teachings of the prior art references so as to render the claimed invention obvious. *In re Gorman*, 933 F.2d 982, 987 (Fed. Cir. 1991). Under no condition can an Examiner combine the teachings of references, unless those references include some teaching or suggestion supporting the combination. *In re Fritch*, 972 F.2d 1260, 1266 (Fed. Cir. 1992) (quoting *ACS Hosp. Systems, Inc. v. Montefiore Hosp.*, 732 F.2d 1572, 1577 (Fed. Cir. 1984))

An Examiner is not allowed to use hindsight to pick and choose among pieces of prior art references so as to reconstruct the claimed invention. *In re Fritch*, 972 F.2d at 1266. As the Federal Circuit has observed on more than one occasion, “[t]o imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher.” *In re Fine*, 837 F.2d 1071, 1075 (Fed. Cir. 1988) (quoting *W.L. Gore & Assoc. v. Garlock, Inc.*, 721 F.2d 1540, 1553 (Fed. Cir. 1983)). See also *Pentec, Inc. v. Graphic Controls Corp.*, 776 F.2d 309, 313, 227 USPQ 2d. 1923, (Fed. Cir. 1985) Additionally, it is improper to focus on obviousness of substitutions, instead of on an invention as a whole. *Gillette Co. v. S.C. Johnson & Son, Inc.* 16 USPQ 2d. 1923 (Fed. Cir. 1990)

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

It is the invention as a whole that must be evaluated. "...the changes must be evaluated in terms of the whole invention, including whether the prior art provides any teaching or suggestion to one of ordinary skill in the art to make the changes that would produce the patentee's method and device." Northern Telecom, Inc. v. Datapoint Corp., 908 F.2d 931, 15 USPQ 2d. 1321 (Fed. Cir. 1990)

As noted above, the final Office Action addresses the obviousness rejection of claim 1 on page 21 and states in relevant part:

Claims 1-3 recite limitations already addressed by the rejection of claims 4-36, 40, 41, 43-49, and 52-57 above; therefore the same rejection applies.

Claims 1-3 contain elements/limitations, including the element(s)/limitation(s) underlined and italicized above, that are unique to claims 1-3. Thus, Applicants respectfully submit that claims 1-3 recite limitations that were not addressed by the rejection of claims 4-36, 40, 41, 43-49, and 52-57 and, moreover, that the May 17, 2004 Office Action does not point to where in the cited documents one can find a motivation or suggestion to combine the cited documents to achieve the invention claimed in currently pending claim 1.

Pages 3-4 of the May 17, 2004 Office Action states the following in response to this assertion by the Applicant:

Applicant fails to address Examiner's combination of Decision Focus Software and Lee as a whole. For example, Applicant does not address Examiner's preface to the teachings of Lee:

Regarding claims 4, 35, and 36, Decision Focus Software comes in a networked version in which worksheet files can be saved on a network server and shared among various users ("Decision Focus Software Network Version 1.0 User's Guide": Pages 5, 10, 11). Broadly speaking, a "knowledge base" merely refers to a collection of knowledge, i.e., data; therefore, the collection of these worksheet files serves as a "knowledge base." Decision Focus Software does not expressly teach that these centrally stored worksheet files are linked to one another in a large database (which is what would be suggested by placing the information found in such files in a "knowledge base"); however, as discussed above, various users can access the worksheet files of other people for their personal use.

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

[Emphasis added.] [Quoted from the August 14, 2003 Office Action issued in this case.]

Clearly, the teaching of Decision Focus Software in conjunction with those of Lee yield not only the necessary motivation to combine the teachings of both references, but also the claimed invention as a whole. For example, as explained in the art rejection, Decision Focus Software comes in a networked version that allows users to share worksheet files with one another. This furthers the sharing of knowledge among users. Lee merely fills in the blanks regarding the use of normalized databases as opposed to non-normalized ones, which Examiner asserts is a very old and well-known concept in the art of database management. [Emphasis added.]

The Office Action also discusses the Lee document on pages 14 and 15. On page 14, the May 17, 2004 Office Action states in relevant part::

Lee discusses the benefits (“reduced anomalies, storage requirements, and transaction response time”) of utilizing normalized databases “in information systems development processes to group data into well-refined structures.” Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant’s invention to centrally store the data from Decision Focus® Software collective worksheet files in a “knowledge base” (in the stricter sense of a “knowledge base” as a database per se of information), such as a normalized database, in order to facilitate access to all of the collected worksheet files by various networked users through keyword searches in order to provide quick access to data in a manner that reduces anomalies, minimizes storage requirements, and improves transaction response time (as taught by Lee). [Emphasis added.]

As noted above, obviousness cannot be established by combining the teachings of the cited documents to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination. It is impermissible for the Examiner to use the claimed invention as a “template” to piece together the teachings of the prior art references so as to render the claimed invention obvious. Under no condition can an Examiner combine the teachings of references, unless those references include some teaching or suggestion supporting the combination. Additionally, it is improper to focus on obviousness of substitutions, instead of on an invention as a whole. It is the invention as a whole that must be evaluated. “...the changes must be evaluated in terms of the

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

whole invention, including whether the prior art provides any teaching or suggestion to one of ordinary skill in the art to make the changes that would produce the patentee's method and device."

In contrast to the characterization of the teaching of Lee provided in the quotes above from the May 17, 2004 Office Action, Lee teaches away from making the suggested combination. The Lee document describes design choices that one makes when designing a relational database and describes the efforts that one undertakes to create and maintain a relational database model. For example, the second full paragraph of page 2 of the Lee document states in relevant part:

[the database administrator] is often responsible for backing up and restoring the database when it becomes corrupted due to equipment failure, power loss, or program errors.

The top of page 3 of the Lee document continues to describe needs associated with a relational model/database:

Real-world data are rarely organized according to the relational model, and careful consideration needs to be given to alternatives in balancing theoretical aspects of the relational model with real-world processing requirements and performance of the resulting computerized application.

The fourth full paragraph on page 12 notes that a data manager must be able to safeguard sensitive data from access by unauthorized personnel. The last paragraph on page 13 again continues to describe needs associated with a relational model/database:

The concept of transaction processing should be applied to preserve database integrity and consistency, and techniques such as key fields, indexing, and query methods must be considered in addressing the important issue of system performance.

Indeed, as noted above, the complete abstract of Lee indicates that there are costs associated with normalization. More specifically, the complete abstract states the following:

Proposes a **cost/benefit model** coupled with a decision tree for determining normal forms, which are used in information systems development processes to group data into well-refined structures. The three primary variables that impact the benefits **and costs of**

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

**normalization (reduced anomalies, storage requirements, and transaction response times) are addressed.** [Emphasis added.]

Thus, reading the Lee document, one would not be motivated to add a central relational database to the subject matter of the DF documents to achieve the claimed invention because of the effort required (as described in the Lee document) to develop and maintain a relational database. In other words, the Lee document teaches that relational database development and maintenance are complicated processes requiring effort and thought. Thus, the Lee document teaches away from adding a central relational database to a networked decision making system because one would need a compelling reason to create and maintain a central relational database and because the Lee document does not appear to even discuss adding a central database to a pre-existing networked system.

In response to Applicants arguments above (made in Applicants December 12, 2003 response) page 5 of the May 17, 2004 Office Action states the following:

First, as explained above and in the art rejection, the networked version of Decision Focus Software allows users to share worksheet files with one another. Broadly speaking, a “knowledge base” merely refers to a collection of knowledge, i.e., data; therefore, the collection of these worksheet files serves as a “knowledge base.” Lee states that normalization yields the benefits of “reduced anomalies, storage requirements, and transaction response times” (abstract). Applicant’s assertion that implementing a normalized database is very complex and, therefore, one of ordinary skill in the art at the time of Applicant’s invention would not have been motivated to incorporate one into the Decision Focus Software ignores the important benefits of choosing to implement such a database. Whether or not making this modification (e.g. adding a normalized database) to Decision Focus Software would pose a daunting task, one of ordinary skill in the art at the time of Applicant’s invention would not overlook these benefits of “reduced anomalies, storage requirements, and transaction response times” (abstract). For example, users in a network are often concerned with potential anomalies in data storage and retrieval, lack of storage/overwhelming storage requirements, and data storage and retrieval response times. The users of the networked version of Decision Focus Software are likely no different and, therefore, the Examiner maintains that one of ordinary skill in the art would indeed have been motivated and found it obvious to incorporate a normalized database with Decision Focus Software for the reasons presented in Lee in light of the

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

goals of the networked version of Decision Focus Software, as discussed in the art rejection. [Emphasis added.]

In contrast to the italicized and underlined portion of the quote directly above, Applicants respectfully submit that *if a reference teaches that making a combination/modification proposed by an Examiner would pose a daunting task, then that reference is not providing a motivation or suggestion to make the combination/modification.* As noted above, obviousness cannot be established by combining the teachings of the cited documents to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination. See *In re Geiger*, 815 F.2d 686, 2 USPQ 2d 1276, 1278 (Fed. Cir. 1987). Applicants submit that, for the reasons cited above, the Lee document does indeed indicate that relational database development and maintenance are complicated processes requiring effort and thought and, therefore, that modifying the teachings of the DF documents to achieve the subject matter of claim 1 would be a daunting task.

In other words, the final Office Action does not point to a disclosure in the DF and/or Lee documents that provides a suggestion or motivation to make the combination suggested in the Office Action to achieve the invention claimed in claim 1.

In sum, for the reasons cited above, currently pending claim 1 is patentably distinct from the DF documents and the Lee document, alone or in combination.

Claims 2 and 3 include similar limitations to claim 1. Therefore, for the reasons cited above, claims 1-3 are patentably distinct over the DF documents and the Lee document, alone or in combination and the rejection of claims 1-3 under 35 USC 103 as obvious over the DF documents in view of the Lee document is traversed.

**E. GROUP II (CLAIMS 4-7, 17-29, 31-42, 58-61, 71-83, AND 85-96): THE DF DOCUMENTS DO NOT DISCLOSE (I) EMPLOYING A KNOWLEDGE BASE OR (II) EMPLOYING AN ACTION TRACKER AS CLAIMED IN CLAIM 4.**

Claims 4-7, 17-29, 31-42, 58-61, 71-83, and 85-96 include independent claims 4 and 58. Independent claim 4 provides a process for eliciting, processing, storing, and displaying information concerning a complex business situation. The process includes: *employing a knowledge base providing for structured storage and retrieval of data;*

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

employing at least one of: a) a situation appraisal process; b) a problem analysis process; c) a decision analysis process; and d) a potential side effect analysis process; and employing an action tracker process to (i) retrieve and present actions from the other processes, and (ii) to elicit, store, retrieve and present attributes of the actions, the attributes of each action including a responsible person, a deadline, and status; wherein each process employs a corresponding set of graphical user interface (GUI) process screens in eliciting data from and presenting data to a user.

Please see claim 4 for the full recitations of the situation appraisal, problem analysis, decision analysis and potential side effect analysis processes.

Independent claim 58 contains elements/limitations similar to those of claim 4.

**Response to rejection of claims 4-7, 17-29, 31-42, 58-61, 71-83, and 85-96**

Contrary to the assertion in the final Office Action that claim 4 is obvious over the DF documents in view of the Lee document, claim 4 recites element(s)/limitation(s) that are completely absent from the DF documents and the Lee document, alone or in combination.

**The DF documents**

In particular, as acknowledged by the final Office Action, the DF documents do not teach "employing a knowledge base providing for structured storage and retrieval of data," as claimed in currently pending claim 4. More specifically, pages 14-15 of the final Office Action state in relevant part:

Regarding claims 4, 35, and 36, Decision Focus® Software comes in a networked version in which worksheet files can be saved on a network server and shared among various users ("Decision Focus® Software Network Version 1.0 User's Guide": Pages 5, 10, 11). Broadly speaking, a "knowledge base" merely refers to a collection of knowledge, i.e., data; therefore the collection of these worksheet files serves as a "knowledge base." Decision Focus® Software does not expressly teach that these centrally stored worksheet files are linked to one another in a large database (which is what would be suggested by placing the information found in such files in a "knowledge base"). [Emphasis added.]

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

In addition, the DF documents do not disclose “employing an action tracker process to (i) retrieve and present actions from the other processes, and (ii) to elicit, store, retrieve and present attributes of the actions, the attributes of each action including a responsible person, a deadline, and status [emphasis added],” as claimed in currently pending claim 4. The action tracker is shown as element 20 in FIG. 1 and is described, among other places, on pages 35 and 36 of the present application.

The final Office Action discusses claim 4 on pages 8 and 9 and on pages 14 and 15. More specifically, the second paragraph of page 9 of the May 17, 2004 Office Action merely quotes the “action tracker” element(s)/limitation(s) underlined and italicized directly above and then states the following: “(‘Decision Focus® Software User’s Guide (Version 1.0)’: Pages 33-35).”

Pages 33-35 of Decision Focus® Software User’s Guide (Version 1.0) (hereinafter DF User’s Guide) describes ‘Problem Prevention.’ According to page 33 of the DF User’s Guide, Problem Prevention is the systematic analysis of a plan to provide assurance that a minimum of problems will occur during implementation. Pages 33-35 of DF User’s Guide continue to describe steps for creating a problem prevention worksheet, entering a planning statement, listing the steps necessary for implementing the plan, identifying potential problems and entering preventive and contingent actions.

Pages 33-35 of the DF User’s Guide do not disclose “employing an action tracker process to (i) retrieve and present actions from the other processes, and (ii) to elicit, store, retrieve and present attributes of the actions, the attributes of each action including a responsible person, a deadline, and status,” as claimed in currently pending claim 4. The element(s)/limitation(s) italicized directly above are completely absent from the DF User’s Guide. Retrieving actions from the other processes advantageously allows a user to take advantage of work that has been done in the past and/or in other contexts.

In response to Applicants argument above (made in Applicants December 12, 2003 response), page 6 of the final Office Action merely states the following:

On pages 26-31 of Applicant’s response, Applicant presents similar arguments for claims 4 and 58 as those presented for claims 1-3 above. The same responses from Examiner apply.

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

Applicants respectfully submit that Applicants arguments for claims 4 and 58 involve a recitation(s), e.g., "employing an action tracker process to (i) retrieve and present actions from the other processes, and (ii) to elicit, store, retrieve and present attributes of the actions, the attributes of each action including a responsible person, a deadline, and status," and associated arguments that are completely unique to claims 4 and 58. Thus, Applicants submit that the same responses from the Examiner do not apply.

**F. GROUP II (CLAIMS 4-7, 17-29, 31-42, 58-61, 71-83, AND 85-96): THE LEE DOCUMENT DOES NOT DISCLOSE (I) EMPLOYING A KNOWLEDGE BASE OR (II) EMPLOYING AN ACTION TRACKER AS CLAIMED IN CLAIM 4.**

Furthermore, the Lee document does not disclose the element(s)/limitation(s) italicized and underlined above, i.e., 1) employing a knowledge base providing for structured storage and retrieval of data, and/or 2) employing an action tracker process to (i) retrieve and present actions from the other processes, and (ii) to elicit, store, retrieve and present attributes of the actions, the attributes of each action including a responsible person, a deadline, and status [hereinafter "the action tracker recitation"], as claimed in currently pending claim 4. As noted above, the final Action discusses claim 4 on pages 8 and 9 and on pages 14 and 15.

The August 14, 2003 Office Action discusses the Lee document on pages 14 and 15. On pages 14 and 15, the August 14, 2003 Office Action states in relevant part:

Lee discusses the benefits ("reduced anomalies, storage requirements, and transaction response time") of utilizing normalized databases "in information systems development processes to group data into well-refined structures."

The final Office Action appears to be quoting a portion of the abstract of the Lee document. The complete abstract indicates that there are costs associated with normalization. More specifically and as noted above, the complete abstract states the following:

Proposes a **cost/benefit model** coupled with a decision tree for determining normal forms, which are used in information systems development processes to group data into well-refined structures. The three primary variables that impact the benefits **and costs of**

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

**normalization (reduced anomalies, storage requirements, and transaction response times) are addressed.** [Emphasis added.]

In other words, the final Office Action does not point to a teaching in Lee of the action tracker recitation. The final Office Action does not point to such a teaching because the Lee abstract in particular and the Lee document in general do not teach: 1) *employing a knowledge base providing for structured storage and retrieval of data*, and/or 2) *employing an action tracker process to (i) retrieve and present actions from the other processes, and (ii) to elicit, store, retrieve and present attributes of the actions, the attributes of each action including a responsible person, a deadline, and status*, as claimed in currently pending claim 4.

**G. GROUP II (CLAIMS 4-7, 17-29, 31-42, 58-61, 71-83, AND 85-96): THUS THE DF AND LEE DOCUMENTS, INDIVIDUALLY OR IN COMBINATION, DO NOT DISCLOSE (I) EMPLOYING A KNOWLEDGE BASE OR (II) EMPLOYING AN ACTION TRACKER AS CLAIMED IN CLAIM 4.**

The final Office Action does not point to a teaching in the DF and/or Lee documents of the above-referenced element(s)/limitation(s). In Applicant's December 12, 2003 response, the Applicant respectfully requested, if the Examiner repeated this obviousness rejection, that the Examiner specify where in either the DF documents or the Lee document such element(s)/limitation(s) is/are taught. The final Office Action did not respond to this request so presumably there are no other un-cited sections of the DF and Lee documents that the Examiner considers to teach the above-referenced recitations.

Given that the DF documents and/or the Lee document do not teach the above-referenced recitations, even if one were to combine Lee and the DF documents as suggested one would not arrive at the claimed invention.

**H. GROUP II (CLAIMS 4-7, 17-29, 31-42, 58-61, 71-83, AND 85-96): FURTHERMORE, THERE IS NO MOTIVATION OR SUGGESTION IN THE DF AND LEE DOCUMENTS TO MAKE THE COMBINATION INDICATED IN THE OFFICE ACTION AND LEE TEACHES AWAY FROM THE SUGGESTED COMBINATION**

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

As noted above, obviousness cannot be established by combining the teachings of the cited documents to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination.

Also as noted above, the only statements made in the final Office Action directly addressing the obviousness rejection of claim 4 are located on pages 8 and 9 and on pages 14 and 15.

The Office Action discusses the Lee document briefly on pages 14 and 15 stating in relevant part:

Lee discusses the benefits ("reduced anomalies, storage requirements, and transaction response time") of utilizing normalized databases "in information systems development processes to group data into well-refined structures." Therefore, the Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of Applicant's invention to centrally store the data from Decision Focus® Software collective worksheet files in a "knowledge base" (in the stricter sense of a "knowledge base" as a database per se of information), such as a normalized database, in order to facilitate access to all of the collected worksheet files by various networked users through keyword searches in order to provide quick access to data in a manner that reduces anomalies, minimizes storage requirements, and improves transaction response time (as taught by Lee). [Emphasis added.]

In contrast to the characterization of the teaching of Lee provided in this quote from the final Office Action, Lee teaches away from making the suggested combination. As noted above, the Lee document describes design choices that one makes when designing a relational database and describes the efforts that one undertakes to create and maintain a relational database model. For example, the second full paragraph of page 2 of the Lee document states in relevant part:

[the database administrator] is often responsible for backing up and restoring the database when it becomes corrupted due to equipment failure, power loss, or program errors.

The top of page 3 of the Lee document continues to describe needs associated with a relational model/database:

Real-world data are rarely organized according to the relational model, and careful consideration needs to be given to alternatives in balancing theoretical aspects of the relational model with real-world

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

processing requirements and performance of the resulting computerized application.

The fourth full paragraph on page 12 notes that a data manager must be able to safeguard sensitive data from access by unauthorized personnel. Moreover, the last paragraph on page 13 continues to describe needs associated with a relational model/database:

The concept of transaction processing should be applied to preserve database integrity and consistency, and techniques such as key fields, indexing, and query methods must be considered in addressing the important issue of system performance.

Indeed, as noted above, the complete abstract of Lee indicates that there are costs associated with normalization. More specifically, the complete abstract states the following:

Proposes a **cost/benefit model** coupled with a decision tree for determining normal forms, which are used in information systems development processes to group data into well-refined structures. The three primary variables that impact the benefits **and costs of normalization** (reduced anomalies, storage requirements, and transaction response times) **are addressed**. [Emphasis added.]

Thus, reading the Lee document, one would not be motivated to add a relational database to the subject matter of the DF documents to achieve the claimed invention because of the effort required (as described in the Lee document) to develop and maintain a central relational database. In other words, the Lee document teaches that relational database development and maintenance are complicated processes requiring effort and thought. As a consequence, the Lee document teaches away from adding a central relational database to a pre-existing networked decision making system because one would need a compelling reason to create and maintain a central relational database and because the Lee document does not appear to even discuss adding a central database to a pre-existing networked system.

The final Office Action appears to indicate that the Lee abstract provides the suggestion or motivation to combine the Lee and DF documents to achieve the claimed combination. More specifically, page 14 of the final Office Action appears to indicate

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

that the suggestion or motivation to combine the Lee and DF documents to achieve the claimed combination is 'to provide quick access to data in a manner that reduces anomalies, minimizes storage requirements, and improves transaction response time (as taught by Lee)." However, the Lee abstract, when read in full, describes variables that impact the benefits and costs of normalization (versus non-normalization). In other words, the cited section of the Lee abstract is not describing the benefits of adding a central database to a pre-existing networked system but rather the benefits and costs of normalizing a database.

In other words, the final Office Action does not point to a disclosure in the Lee document that provides a suggestion or motivation to make the combination indicated in the Office Action to achieve the invention claimed in claim 4.

In sum, for the reasons cited above, currently pending claim 4 is patentably distinct from the DF documents and the Lee document, alone or in combination.

Independent claim 58 is a computer readable medium claim that includes elements/limitations similar to claim 4. Therefore, for the reasons cited above, claim 58 is patentably distinct over the DF documents and the Lee document, alone or in combination. Furthermore, claims 5-7, 17-29, 31-42 are dependent, directly or indirectly, on claim 4, and claims 59-61, 71-83, and 85-96 are dependent, directly or indirectly, on claim 58. Therefore, claims 5-7, 17-29, 31-42 and claims 58-61, 71-83, and 85-96 are patentably distinct over the DF documents and the Lee document, alone or in combination, at least for the reasons cited above with respect to claim 4 and the rejection of these claims under 35 USC 103 as obvious over the DF documents in view of the Lee document is traversed.

**I. GROUP III (CLAIMS 8-16, 43-45, 62-70, AND 97-99): THE USPTO IMPROPERLY TAKES OFFICIAL NOTICE THAT CLAIMS 8-16, 43-45 ARE OLD AND WELL KNOWN**

On pages 13-16 of the August 14, 2003 Office Action, the Examiner takes Official Notice that a variety of subject matter recited in claims 8-16 and 43-45 is old and well known. For example, page 14 of the August 14, 2003 Office Action states the following:

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

Official Notice is taken that the process of checking to screen and filter data input by a user with the motivation of ensuring the completeness and correctness of the entered data (claim 9) is old and well known in the art of form filing. Official Notice is also taken that, for the same reasons (i.e., to ensure the completeness and corrections [sic] of entered data), it is old and well-known in the art of form filing to perform the following types of proofreading/completion checking/error correction: check misstated information to detect skipped steps, unsound data, and incomplete analysis (claim 10); check common pitfalls to advise the user of pitfalls that can be encountered as a result of imprecision in the entered data (claim 11); sharpen to successively refine entered data considered to be critical to proper analysis (claim 12); notify the user upon detection of incomplete or incorrect data (claim 13); notify the user by displaying a message to the user as the user attempts to advance to a succeeding GUI process screen (claim 14); and notify the user by displaying a message to the user immediately upon detection of incomplete or incorrect data (claim 15). [Emphasis added.]

The Applicants assert that the subject matter of claims 8-16 and 43-45 is not old and well known in the relevant art(s). In Applicants' December 12, 2003 Response, the Applicant stated the following with regard to these claims:

In the event that the Examiner repeats the 35 USC 103 rejection of claims 8-16 and 43-45 included in the August 14, 2003 Office Action, per MPEP 2144.03, Applicants respectfully request that the Examiner provide evidence, e.g., documentary evidence or an affidavit (if the Examiner is relying on personal knowledge), to support the various takings of Official Notice on pages 13-16. [Emphasis added.]

In response to that request, page 6 of the May 17, 2004 Office Action states the following:

Applicant broadly challenges the Official Notice statements made in relation to claims 9-15, "The Applicants assert that the subject matter of claims 8-16 and 43-45 is not old and well-known in the relevant art(s)." (Page 32 of Applicant's response) It is not clear whether Applicant is challenging the validity of the Official Notice statements themselves or the motivation to combine them with the Decision Focus Software and Lee references. Furthermore, Applicant's blanket challenge amounts to nothing more than an unsupported challenge and is therefore insufficient to switch the burden back to the Examiner to cite supporting references (MPEP 2144.03) and/or present further arguments in support of the motivation to combine teachings. [Emphasis added.]

APPELLANTS' BRIEF ON APPEAL

Application No. 09/493,783

Attorney Docket No. 24200-002CON

Applicants respectfully submit that Applicants' statement underlined above (i.e., per MPEP 2144.03, Applicants respectfully request that the Examiner provide evidence, e.g., documentary evidence or an affidavit, to support the various takings of Official Notice on pages 13-16) is clear on its face. Indeed, MPEP 2144.03 states in relevant part:

Official notice without documentary evidence to support an examiner's conclusion is permissible only in some circumstances. While "official notice" may be relied on, these circumstances should be rare when an application is under final rejection or action under 37 CFR 1.113. Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. As noted by the court in *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970), the notice of facts beyond the record which may be taken by the examiner must be "capable of such instant and unquestionable demonstration as to defy dispute...If Applicant Challenges a Factual Assertion as Not Properly Officially Noticed or not Properly Based Upon Common Knowledge, the Examiner Must Support the Finding With Adequate Evidence

Specifically, and for example, Applicants assert that 1) checking misstated information to detect skipped steps, unsound data, and incomplete analysis (claim 10); 2) checking common pitfalls to advise the user of pitfalls that can be encountered as a result of imprecision in the entered data (claim 11); and 3) successively refining entered data considered to be critical to proper analysis (claim 12) involve subject matter that is not old and well known in the art at the time of filing as evidenced by the fact that competitive products (documents describing competitive products have been submitted in information disclosure statements) did not incorporate such subject matter. Thus, Applicants submit that the USPTO has not provided evidence, e.g., documentary evidence or an affidavit sufficient to support the various takings of Official Notice and thus the rejection of claims 8-16 and 45-47 is traversed. Claims 62-70, and 97-99 recite limitations that are substantially similar to claims 8-16 and 45-47, respectively. Therefore the rejection of claims 61-70 and 97-99 is traversed for the same reasons provided above with respect to claims 8-16 and 45-47.

**J. GROUP IV (CLAIMS 30, 46-57, 84, AND 100-111): THE SUBJECT MATTER OF  
DEPENDENT CLAIMS 30 46-57, 84, AND 100-111 FURTHER PATENTABLY DISTINGUISH  
OVER THE CITED DOCUMENTS**

The subject matter of the dependent claims, e.g., claims 30 and 46-57, further patentably distinguish over the cited documents. For example, claim 30 recites the following: “A process according to claim 4, wherein the action tracking process further includes eliciting, storing, retrieving, and presenting process data from at least one of the other processes in addition to the associated actions.” In rejecting claim 30, page 9 of the August 14, 2003 Office Action merely cites pages 11-32 of the DF User’s Guide without further explanation. Applicant respectfully requested in Applicants December 12, 2003 response, if the rejection was repeated, that the Examiner specify where in the DF User’s Guide the subject matter of claim 30 is taught.

In response to Applicants request, page 6 of the final Office Action states the following:

Applicant requests more explanation regarding the rejection of claim 30 (pages 31-32 of Applicant’s response). As stated in the art rejection, the limitation “wherein the action tracking process further includes eliciting, storing, retrieving, and presenting process data from at least one of the other processes in addition to the associated actions” (claim 30) is addressed on pages 11-32 of “Decision Focus® Software User’s Guide (Version 1.0).” Each of the four recited analyses in steps (a)-(d) can be elicited, stored, retrieved, and presented (see discussion of the specific steps (a)-(d) in the art rejection, which has not been argued by Applicant). Therefore, a user has access to any and all of the four recited analyses and related worksheets. [Emphasis added.]

The only additional explanation provided as to the rejection of claim 30 in light of 21 pages of the Decision Focus® Software User’s Guide (Version 1.0) is the underlined portion of the quote above. This quote does not point to a specific section of the User’s Guide or even assert that the User’s Guide teaches the relevant recitation, i.e., wherein the action tracking process further includes eliciting, storing, retrieving, and presenting process data from at least one of the other processes in addition to the associated actions. Indeed, the DF documents do not teach the claimed action tracking process. Thus, Applicants respectfully submit that the 35 USC 103 rejection of claim 30 is traversed.

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

Similar to claim 30, claims 46-57, 84, and 100-111 include additional subject matter that patentably distinguishes over the cited documents. More specifically, claims 46-57, 84, and 100-111 relate to embodiments of the action tracker process and/or the knowledge base. As noted above, the action tracker process and the knowledge base recitations are not taught in the DF and Lee documents. Thus, these claims are patentably distinct of the cited documents.

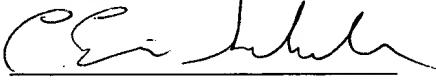
**X. CONCLUSION**

In view of the foregoing, the Applicants respectfully request that the Board reverse the prior art rejections set forth in the Office Action dated May 17, 2004, and allow all of the pending claims.

Respectfully submitted,

MINTZ, LEVIN, COHN, FERRIS,  
GLOVSKY AND POPEO, P.C.

Dated: March 14, 2005

By: 

C. Eric Schulman  
(Registration No. 43,350)

One Financial Center  
Boston, MA 02111  
Telephone (617) 348-3005  
Facsimile (617) 542-2241

## XI. Appendix I

1. (Previously amended) A method of gathering, processing, storing, and displaying information concerning a complex business situation comprising the steps of:

providing a graphical user interface for entering data concerning said complex business situation;

refining said data in a predetermined, stepwise manner through user interaction with said graphical user interface;

generating, through said stepwise manner and said graphical user interface, a list of effective actions for addressing said complex business situation; and

storing said data in an indexed and normalized form in a knowledge base adapted for structured query and retrieval in performing said steps of refining and generating, said knowledge base enabling selection of an in process analysis for modification by a user.

2. (Previously amended) A computer program product comprising computer readable program code fixed on a computer readable medium operable to receive, process, store, and display information concerning a complex business situation comprising:

computer readable program code for providing a graphical user interface for entering data concerning said complex business situation;

computer readable program code for refining said data in a predetermined, stepwise manner through user interaction with said graphical user interface;

computer readable program code for generating a list of effective actions for addressing said complex business situation through use of said computer readable program code for refining said data; and

computer readable program code for storing said data in an indexed and normalized form in a knowledge base adapted for structured query and retrieval by said

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

computer readable program code for refining said data, said knowledge base enabling selection of an in process analysis for modification by a user and said computer readable program code for generating said list.

3. (Previously amended) An apparatus for gathering, processing, storing, and displaying information concerning a complex business situation comprising:

    a graphical display device operable to provide a graphical user interface for entering data concerning said complex business situation;

    a digital input device for entering said data;

    a first memory for storing said data for indexed retrieval;

    a processor for refining said data stored in said first memory in a predetermined, stepwise manner through user interaction with said graphical user interface and said digital input device;

    a second memory having a set of instructions operable by said processor to generate, through said stepwise manner and said graphical user interface, a list of effective actions for addressing said complex business situation; and

    a third memory operable to store said entered data and said refined data in an indexed and normalized form in a knowledge base adapted for structured query and retrieval, said knowledge base enabling selection of an in process analysis for modification by a user.

4. (Previously added) A process for eliciting, processing, storing, and displaying information concerning a complex business situation, the process comprising:

    employing a knowledge base providing for structured storage and retrieval of data; employing at least one of:

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

- a) a situation appraisal process to elicit, store, retrieve and present situation data, the situation data including (i) concerns about the situation and respective attributes of the concerns, the attributes of each concern including a relative priority and a process to be used for further analysis, and (ii) actions to be taken to address the concerns;
- b) a problem analysis process to elicit, store, retrieve and present problem data including an object of a problem in the situation and attributes of the object, the attributes including a deviation, possible causes, actions to be taken to confirm a true cause, a confirmed true cause, and actions to be taken to address the confirmed true cause;
- c) a decision analysis process to elicit, store, retrieve and present decision data, the decision data including (i) objectives of a decision regarding the situation and respective attributes of the objectives, the attributes of each objective including an indication of relative importance and at least one alternative, (ii) for each alternative a set of risks and respective probabilities and consequences, (iii) a final decision regarding alternatives to be pursued, and (iv) actions to be taken to implement the final decision; and
- d) a potential side effect analysis process to elicit, store, and present potential side effect data, the side effect data including potential side effects of an action to be taken to address the situation and respective attributes of the potential side effects, the attributes of each potential side effect including a likely cause, actions to be taken to influence the likelihood of occurrence of the side effect, and actions to be taken in the event of occurrence of the side effect; and

employing an action tracker process to (i) retrieve and present actions from the other processes, and (ii) to elicit, store, retrieve and present attributes of the actions, the attributes of each action including a responsible person, a deadline, and status;

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

wherein each process employs a corresponding set of graphical user interface (GUI) process screens in eliciting data from and presenting data to a user.

5. (Previously added) A process according to claim 4, wherein each analysis process further includes providing user performance support.

6. (Previously added) A process according to claim 5, wherein providing user performance support includes coaching the user by providing explanations and suggestions about the data being elicited upon an indication by the user that such coaching is desired.

7. (Previously added) A process according to claim 5, wherein providing user performance support includes providing examples to the user regarding the data being elicited upon an indication by the user that such providing of examples is desired.

8. (Previously added) A process according to claim 5, wherein providing user performance support includes providing pop-up definitions of highlighted terms appearing on the GUI process screens in response to the user's selection thereof.

9. (Previously added) A process according to claim 7, wherein each analysis process further includes process checking to screen and filter data input by the user to ensure the completeness and correctness thereof.

10. (Previously added) A process according to claim 9, wherein the process checking includes misstated information checking to detect skipped steps, unsound data, and incomplete analysis.

11. (Previously added) A process according to claim 9, wherein the process checking includes common pitfall checking to advise the user of pitfalls that can be encountered as a result of imprecision in the data entered by the user.

12. (Previously added) A process according to claim 9, wherein the process checking includes sharpening to successively refine entered data considered to be critical to proper analysis.

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

13. (Previously added) A process according to claim 9, wherein the process checking includes notifying the user upon detection of incomplete or incorrect data.
14. (Previously added) A process according to claim 13, wherein notifying the user comprises displaying a message to the user as the user attempts to advance to a succeeding GUI process screen.
15. (Previously added) A process according to claim 13, wherein notifying the user comprises displaying a message to the user immediately upon detection of the incomplete or incorrect data.
16. (Previously added) A process according to claim 9, wherein each analysis process further includes disabling the process checking at the request of the user.
17. (Previously amended) A process according to claim 4, wherein each analysis process is usable in either a worksheet mode or an interview mode, each mode being associated with a different set of the GUI process screens, the interview mode GUI process screens containing specific questions to elicit a proper type of data from a user.
18. (Previously amended) A process according to claim 17, wherein the interview mode GUI process screens include transition screens each summarizing a respective set of process steps to be performed in an immediately-following set of GUI process screens.
19. (Previously amended) A process according to claim 17, wherein the interview mode GUI process screens include summary screens each summarizing a respective set of process steps performed and the data entered in an immediately-preceding set of GUI process screens.
20. (Previously amended) A process according to claim 17, further operative to toggle between worksheet mode and interview mode upon user demand.
21. (Previously added) A process according to claim 4, wherein the attributes for each concern included in the situation data further include seriousness, urgency, and growth of the concern.

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

22. (Previously added) A process according to claim 4, wherein the attributes of each object included in the problem data further include a location and a date pertaining to a deviation thereof.
23. (Previously added) A process according to claim 4, wherein the attributes of each object included in the problem data further include “is” and “is not” descriptions.
24. (Previously added) A process according to claim 23, wherein the attributes of each object further include distinctions and changes.
25. (Previously added) A process according to claim 4, wherein the attributes of each object included in the problem data further include conditions and assumptions associated with the possible causes.
26. (Previously added) A process according to claim 4, wherein the indication of relative importance of each objective included in the decision data includes a classification as either a “must” or a “want” and a weight for each objective classified as a “want”.
27. (Previously added) A process according to claim 4, wherein the attributes of at least one objective include multiple alternatives for pursuing the objective, and wherein the decision analysis process further includes ranking the alternatives according to desirability in pursuing the objective.
28. (Previously added) A process according to claim 4, wherein the side effect analysis process is a potential problem analysis process, the side effect data is problem data, the potential side effects are potential problems, the likelihood-influencing actions for each potential problem are preventative actions to reduce the likelihood of occurrence, and the event-occurrence actions for each potential problem are contingent actions to diminish the effect of occurrence.
29. (Previously added) A process according to claim 4, wherein the side effect analysis process is a potential opportunity analysis process, the side effect data is

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

opportunity data, the potential side effects are potential opportunities, the likelihood-influencing actions for each potential opportunity are promoting actions to increase the likelihood of occurrence, and the event-occurrence actions for each potential opportunity are capitalizing actions to enhance the effect of occurrence.

30. (Previously amended) A process according to claim 4, wherein the action tracking process further includes eliciting, storing, retrieving, and presenting process data from at least one of the other processes in addition to the associated actions.

31. (Previously amended) A process according to claim 30, wherein the process data includes concerns from the situation appraisal process.

32. (Previously amended) A process according to claim 30, wherein the process data includes objects from the problem analysis process.

33. (Previously amended) A process according to claim 30, wherein the process data includes decisions from the decision analysis process.

34. (Previously amended) A process according to claim 30, wherein the process data includes potential side effects from the potential side effect analysis process.

35. (Previously Amended) A process according to claim 4, wherein the knowledge base is adapted for structured storage and retrieval of keywords by the processes, and wherein each process further includes (i) assisting the user in identifying keywords in the elicited data, (ii) storing the identified keywords in the knowledge base, and (iii) executing keyword searches of the knowledge base upon the user's demand.

36. (Previously added) A process according to claim 4, wherein the GUI process screens contain cells capable of receiving user-entered data and capable of being associated with complex data objects stored in the knowledge base, and wherein each process further includes receiving such user-entered data into the cells and associating such complex data objects with the cells as directed by the user.

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

40. (Previously amended) A process according to claim 4, wherein each analysis process further includes a notes cell used to enter clarifying notes.
41. (Previously Amended) A process according to claim 4, further operative to generate reports containing selected portions of the data concerning the complex business situation.
43. (Previously added) A process according to claim 4, further operative to generate electronic mail messages containing actions from one or more of the processes and to send the mail messages to one or more other users of the computer program.
44. (Previously added) A process according to claim 43, further operative to automatically initiate the generating and sending of the electronic mail messages.
45. (Previously added) A process according to claim 43, further operative to send the electronic mail messages to recipients who are not users of the computer program.
46. (Previously Amended) A process according to claim 4, wherein the action tracker process further includes:
  - selecting a previously entered action file for at least one of review and update, the action file selected from action files on user's systems across a network so as to achieve enterprise wide monitoring of the various process screen sequences being undertaken;
  - selecting a concern from the concerns stored in the selected action file; displaying actions entered for the selected concern; and sorting the actions according to specified sort criteria.
47. (Previously amended) A process according to claim 46, wherein the actions are sorted and presented by the when attribute.

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

48. (Previously amended) A process according to claim 46, wherein the actions are sorted and presented by the who attribute.
49. (Previously added) A process according to claim 46, wherein the actions are sorted and presented by the status attribute.
52. (Previously added) A process according to claim 4, wherein each analysis process further includes querying the knowledge base to draw upon knowledge obtained from prior performances of the processes.
53. (Previously added) A process according to claim 52, wherein the querying includes retrieving previously-created queries from the knowledge base and querying the knowledge base therewith.
54. (Previously amended) A process according to claim 4, further including specifying an individual responsible for a specified task,
55. (Previously added) A process according to claim 4, wherein multiple users are able to access the data in the knowledge base concerning the complex business situation.
56. (Previously added) A process according to claim 55, wherein a user is able to selectively incorporate data provided by other users into the knowledge base in association with the complex business situation.
57. (Previously added) A process according to claim 55, wherein (i) multiple users are able to copy data from the knowledge base for respective individual use, and (ii) the multiple users are able to store respective separate copies of the data in the knowledge base.
58. (Previously amended) A computer-readable medium containing a computer program for eliciting, processing, storing, and displaying information concerning a complex business situation, the computer program comprising: program code for accessing a knowledge base providing for structured storage and retrieval of data

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

a situation appraisal module operative to elicit, store, retrieve and present situation data, the situation data including (i) concerns about the situation and respective attributes of the concerns, the attributes of each concern including a relative priority and a process to be used for further analysis, and (ii) actions to be taken to address the concerns;

a problem analysis module operative to elicit, store, retrieve and present problem data including an object of a problem in the situation and attributes of the object, the attributes including a deviation, possible causes, actions to be taken to confirm a true cause, a confirmed true cause, and actions to be taken to address the confirmed true cause;

a decision analysis module operative to elicit, store, retrieve and present decision data, the decision data including (i) objectives of a decision regarding the situation and respective attributes of the objectives, the attributes of each objective including an indication of relative importance and at least one alternative, (ii) for each alternative a set of risks and respective probabilities and consequences, (iii) a final decision regarding alternatives to be pursued, and (iv) actions to be taken to implement the final decision;

a potential side effect analysis module operative to elicit, store, and present potential side effect data, the side effect data including potential side effects of an action to be taken to address the situation and respective attributes of the potential side effects, the attributes of each potential side effect including a likely cause, actions to be taken to influence the likelihood of occurrence of the side effect, and actions to be taken in the event of occurrence of the side effect; and

an action tracker module operative to (i) retrieve and present actions from the other processes, and (ii) to elicit, store, retrieve and present attributes of the actions, the attributes of each action including a responsible person, a deadline, and status;

wherein each module employs a corresponding set of graphical user interface (GUI) process screens in eliciting data from and presenting data to a user.,

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

59. (Previously added) A computer-readable medium according to claim 58, wherein each process further includes providing user performance support.
60. (Previously added) A computer-readable medium according to claim 59, wherein providing user performance support includes coaching the user by providing explanations and suggestions about the data being elicited upon an indication by the user that such coaching is desired.
61. (Previously added) A computer-readable medium according to claim 59, wherein providing user performance support includes providing examples to the user regarding the data being elicited upon an indication by the user that such providing of examples is desired.
62. (Previously added) A computer-readable medium according to claim 59, wherein providing user performance support includes providing pop-up definitions of highlighted terms appearing on the GUI process screens in response to the user's selection thereof.
63. (Previously added) A computer-readable medium according to claim 58, wherein each analysis process further includes process checking to screen and filter data input by the user to ensure the completeness and correctness thereof.
64. (Previously added) A computer-readable medium according to claim 63, wherein the process checking includes misstated information checking to detect skipped steps, unsound data, and incomplete analysis.
65. (Previously added) A computer-readable medium according to claim 63, wherein the process checking includes common pitfall checking to advise the user of pitfalls that can be encountered as a result of impreciseness in the data entered by the user.
66. (Previously added) A computer-readable medium according to claim 63, wherein the process checking includes sharpening to successively refine entered data considered to be critical to proper analysis.

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

67. (Previously added) A computer-readable medium according to claim 63, wherein the process checking includes notifying the user upon detection of incomplete or incorrect data.
68. (Previously added) A computer-readable medium according to claim 67, wherein notifying the user comprises displaying a message to the user as the user attempts to advance to a succeeding GUI process screen.
69. (Previously added) A computer-readable medium according to claim 67, wherein notifying the user comprises displaying a message to the user immediately upon detection of the incomplete or incorrect data.
70. (Previously added) A computer-readable medium according to claim 63, wherein each analysis process further includes disabling the process checking at the request of the user.
71. (Previously amended) A computer-readable medium according to claim 58, wherein each analysis process is usable in either a worksheet mode or an interview mode, each mode being associated with a different set of the GUI process screens, the interview mode GUI process screens containing specific questions to elicit a proper type of data from a user.
72. (Previously amended) A computer-readable medium according to claim 71, wherein the interview mode GUI process screens include transition screens each summarizing a respective set of process steps to be performed in an immediately-following set of GUI process screens.
73. (Previously amended) A computer-readable medium according to claim 71, wherein the interview mode GUI process screens include summary screens each summarizing a respective set of process steps performed and the data entered in an immediately-preceding set of GUI process screens.

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

74. (Previously amended) A computer-readable medium according to claim 71, wherein each process further includes toggling between worksheet mode and interview mode upon user demand.
75. (Previously added) A computer-readable medium according to claim 58, wherein the attributes for each concern included in the situation data further include seriousness, urgency, and growth of the concern.
76. (Previously added) A computer-readable medium according to claim 58, wherein the attributes of each object included in the problem data further include a location and a date pertaining to a deviation thereof.
77. (Previously added) A computer-readable medium according to claim 58, wherein the attributes of each object included in the problem data further include “is” and “is not” descriptions.
78. (Previously added) A computer-readable medium according to claim 77, wherein the attributes of each object further include distinctions and changes.
79. (Previously added) A computer-readable medium according to claim 58, wherein the attributes of each object included in the problem data further include conditions and assumptions associated with the possible causes.
80. (Previously added) A computer-readable medium according to claim 58, wherein the indication of relative importance of each objective included in the decision data includes a classification as either a “must” or a “want” and a weight for each objective classified as “want”.
81. (Previously added) A computer-readable medium according to claim 58, wherein the attributes of at least one objective include multiple alternatives for pursuing the objective, and wherein the decision analysis process further includes ranking the alternatives according to desirability in pursuing the objective.

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

82. (Previously added) A computer-readable medium according to claim 58, wherein the side effect analysis process is a potential problem analysis process, the side effect data is problem data, the potential side effects are potential problems, the likelihood-influencing actions for each potential problem are preventative actions to reduce the likelihood of occurrence, and the event-occurrence actions for each potential problem are contingent actions to diminish the effect of occurrence.
83. (Previously added) A computer-readable medium according to claim 58, wherein the side effect analysis process is a potential opportunity analysis process, the side effect data is opportunity data, the potential side effects are potential opportunities, the likelihood-influencing actions for each potential opportunity are promoting actions to increase the likelihood of occurrence, and the event-occurrence actions for each potential opportunity are capitalizing actions to enhance the effect of occurrence.
84. (Previously amended) A computer-readable medium according to claim 58, wherein the action tracking process further includes eliciting, storing, retrieving, and presenting process data from at least one of the other processes in addition to the associated actions.
85. (Previously amended) A computer-readable medium according to claim 84, wherein the process data includes concerns from the situation appraisal process.
86. (Previously amended) A computer-readable medium according to claim 84, wherein the process data includes objects from the problem analysis process.
87. (Previously amended) A computer-readable medium according to claim 84, wherein the process data includes decisions from the decision analysis process.
88. (Previously amended) A computer-readable medium according to claim 84, wherein the process data includes potential side effects from the potential side effect analysis process.

APPELLANTS' BRIEF ON APPEAL

Application No. 09/493,783

Attorney Docket No. 24200-002CON

89. (Previously added) A computer-readable medium according to claim 58, wherein the knowledge base is adapted for structured storage and retrieval of keywords by the processes, and wherein each process further includes (i) assisting the user in identifying keywords in the elicited data, (ii) storing the identified keywords in the knowledge base, and (iii) executing keyword searches of the knowledge base upon the user's demand.

90. (Previously added) A computer-readable medium according to claim 58, wherein the GUI process screens contain cells capable of receiving user-entered data and capable of being associated with complex data objects stored in the knowledge base, and wherein each process further includes receiving such user-entered data into the cells and associating such complex data objects with the cells as directed by the user.

94. (Previously amended) A computer-readable medium according to claim 58, wherein each process further includes a notes cell to enter clarifying notes.

95. (Previously added) A computer-readable medium according to claim 58, wherein the computer program further comprises a report writer program code module operative to perform a report writer process, the report writer process including generating reports containing selected portions of the data concerning the complex business situation.

97. (Previously added) A computer-readable medium according to claim 58, wherein the computer program further comprises electronic mail program code operative to generate electronic mail messages containing actions from one or more of the processes and to send the mail messages to one or more other users of the computer program.

98. (Previously added) A computer-readable medium according to claim 97, wherein the electronic mail program code is further operative to automatically initiate the generating and sending of the electronic mail messages.

99. (Previously added) A computer-readable medium according to claim 97, wherein the electronic mail program code is further operative to send the electronic mail messages to recipients who are not users of the computer program.

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

100. (Previously amended) A computer-readable medium according to claim 58, wherein the action tracker process further includes:

selecting a previously entered action file for at least one of review and update, the action file selected from action files on user's systems across a network so as to achieve enterprise wide monitoring of the various process screen sequences being undertaken;

selecting a concern from the concerns stored in the selected action file; displaying actions entered for the selected concern; and sorting the actions according to specified sort criteria.

101. (Previously amended) A computer-readable medium according to claim 100, wherein the actions are sorted and presented by the when attribute.

102. (Previously amended) A computer-readable medium according to claim 100, wherein the actions are sorted and presented by the who attribute.

103. (Previously added) A computer-readable medium according to claim 100, wherein the actions are sorted and presented by the status attribute.

106. (Previously added) A computer-readable medium according to claim 58, wherein each analysis process further includes querying the knowledge base to draw upon knowledge obtained from prior performances of the processes.

107. (Previously added) A computer-readable medium according to claim 106, wherein the querying includes retrieving previously-created queries from the knowledge base and querying the knowledge base therewith.

108. (Previously amended) A computer-readable medium according to claim 58, wherein the computer program contains program code operative to specify an individual responsible for executing a specified task.

APPELLANTS' BRIEF ON APPEAL  
Application No. 09/493,783  
Attorney Docket No. 24200-002CON

109. (Previously added) A computer-readable medium according to claim 58, wherein the computer program contains program code operative to enable multiple users to access the data in the knowledge base concerning the complex business situation.

110. (Previously added) A computer-readable medium according to claim 109, wherein the access-enabling program code is further operative to enable a user to selectively incorporate data provided by other users into the knowledge base in association with the complex business situation.

111. (Previously added) A computer-readable medium according to claim 109, wherein the access-enabling program code is further operative to (i) enable the multiple users to copy data from the knowledge base for respective individual use, and (ii) enable the multiple users to store respective separate copies of the data in the knowledge base.

TRA 2013527